

## CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

**DATE:** April 6, 2005

**CALLED TO ORDER:** 6:05 p.m.

**ADJOURNED:** 8:03 p.m.

### ATTENDANCE

#### ATTENDING MEMBERS

Angela Mansfield, Chair  
Patrice Abduallah  
Greg Bowes  
Susie Day  
Scott Keller  
William Oliver  
Steve Talley

#### ABSENT MEMBERS

Jim Bradford

### AGENDA

#### PUBLIC FORUM

Members of the public will be invited to express their views regarding the proposed smokefree air act.

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas  
*(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)*

## **CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE**

The Children's Health and Environment Committee of the City-County Council met on Wednesday, April 6, 2005 at the Warren Performing Arts Center located at 9500 East 16<sup>th</sup> Street. Chair Angela Mansfield called the meeting to order at 6:05 p.m. with the following members present: Patrice Abdullah, Greg Bowes, Susie Day, Scott Keller, and William Oliver. Steve Talley arrived shortly thereafter. Jim Bradford was absent. Councillor Vernon Brown was also in attendance.

### **PUBLIC FORUM**

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas *(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)*

Chair Mansfield welcomed everyone to the Warren Performing Arts Center and thanked Penny Mitchell and those associated with the Center for allowing them to use the facility. She stated that before she opens the meeting for public testimony, Dr. Terry Zollinger, epidemiologist, professor with the Department of Family Medicine, and associate director of the Bowen Research Center, will offer a brief presentation regarding the economic impact of secondhand smoke in Marion County, Indiana. [Attached as Exhibit A.]

Dr. Zollinger provided information from a study on the economic impact of secondhand smoke in Marion County. This study looked at the health care and loss of life costs associated with diseases caused by secondhand smoke exposure. He said that health effects from smoking are well-known, but effects of exposure to secondhand smoke have only recently been identified. It is clear that exposure to secondhand smoke causes disease and death. Secondhand smoke causes low birth weight babies, sudden infant death syndrome (SIDS), respiratory infections in children, asthma and asthma irritation, middle ear infections in children, lung cancer, heart disease, and nasal sinus cancer. Dr. Zollinger said that in order to estimate the cost of health care, they first had to estimate the attributable risk for secondhand smoke exposure, identify the number of cases of the disease, and then add up the cost of hospitalization and ambulatory care costs. He said that they used national outpatient cost data, county level hospitalization data, and medical care categories of the Consumer Price Index to help determine these costs. He relayed the formula for calculations and specific health care costs for both children and adults as detailed in Exhibit A. He said that to determine loss of life costs, the study considered attributable risk, the number of cause-specific deaths, value of life, life expectancy, and the average age at death for specific diseases. The study used

documented studies of the impact of secondhand smoke, vital statistics, and federal government estimates of value of life to help with the findings. He relayed the formula for calculations and specific loss of life costs for both children and adults as detailed in Exhibit A. He relayed the total costs for Marion County in 2000 as \$16.7 million in medical care and \$37.2 million in loss of life, for a total of \$53.9 million, which averages out to approximately \$62.68 per person. He said that more reliable estimates for attributable risk are still needed on other diseases, and some medical care costs for adults were not available. He said that the cost of pain and suffering was not included and business costs need to be updated.

Chair Mansfield thanked Dr. Zollinger for his presentation. She welcomed Councillor Vernon Brown, in whose district this meeting is taking place.

Councillor Keller said that it was testified at earlier hearings that there was a correlation between smoking in homes and children developing asthma. He asked if this study found such a correlation. Dr. Zollinger said that asthma was included in the study. He said that literature clearly shows that smoking in a home environment produces a higher risk of children developing asthma and causes complications for those who already have asthma.

Councillor Oliver asked if there are any violations of health codes where smoking is allowed in a home with an asthmatic child. Dr. Zollinger said that he cannot address that specifically, as he is not familiar with all the Health and Hospital Corporation (H&H) ordinances, but it is always recommended that adults step outside of the home to smoke and not expose their children to these dangerous carcinogens. Councillor Oliver stated that schools used to have smoking lounges for teachers, and the elimination of such should be an example to parents. Dr. Zollinger said that a family's medical provider can certainly advise and explain these dangers to parents.

Councillor Bowes asked if data presented at an earlier hearing regarding secondhand smoke leading to the death of 250 and hospitalization of 1,000 people in Marion County is data from this study. Dr. Zollinger said that there are possibly 262 deaths each year in Marion County attributed to the effects of secondhand smoke. He said that the question becomes about whether or not the County is more worried about health care dollars spent or actual deaths. Councillor Bowes asked how they came up with that number of deaths. Dr. Zollinger said that there are many diseases linked to secondhand smoke, but not all deaths related to that disease are attributable to secondhand smoke exposure, therefore they use a formula to come up with a conservative estimate of percentage of these deaths related to secondhand smoke. He said that it is a complicated process using available data and adjusting for other compounding factors of the disease. They do, however, use peer review quality data, and therefore believe these estimates to be accurate. Councillor Bowes asked if there are numbers available as to how many of these types of deaths from secondhand smoke-related deaths are attributable to other causes. Dr. Zollinger said that he does

not have this information with him tonight but does have these numbers and would be happy to share them with Councillor Bowes.

Councillor Abdullah asked about the correlation between those deaths attributable to first-hand smoking and those caused by secondhand smoke. Dr. Zollinger said that there have been extensive studies about the effects of smoking, and it is easier to determine that smoking is the cause of death. He said that measuring the effects of secondhand smoke continues to evolve and he does not want to overstate the case or make assumptions that cannot be substantiated. He said that it is, however, proven that as the number of first-hand smokers go down, less people are then exposed to secondhand smoke.

Ben Ciaccio stated that he is the owner of Just Darts, a family-owned amusement vending company that has 450 pieces of equipment in 60 bar locations in Marion County. He said that 75% of darters smoke, and this is the way they generate revenue for their company. He said that if bar patrons cannot smoke, they will not stay and play for hours. The Committee should consider the hardship this ban would impose on his business.

Mark Webb, Indiana Licensed Beverage Association, said that most secondhand smoke exposure is attributable to parents smoking in the home. He said that most patrons will go on home to smoke instead of stepping outside a bar every time they want to smoke. He said that the economic impact propaganda does not tell stories of small bars and taverns who have had to close their doors because of smoking bans. He said that Toledo, Ohio was forced to roll back their ban. In the short time that this ban was in effect, 14 bars were forced to close. He said that the comptroller of Maryland decided that state could not afford such loss of business and that ban failed.

Tommy Wills, citizen, stated that he is a non-smoker, but his wife is a smoker and she enjoys smoking after a meal, and the smoke does not bother him. He said this proposal takes freedom of choice away. He said that he and his wife will go to another County to eat if this ban is imposed. He is an ex-Marine and is disturbed that there are boys fighting for this country's freedom right now, yet this proposal wants to take those freedoms away. He said that he is a musician and plays in bands and does not believe that secondhand smoke kills. There are many other air pollution factors people face every day that cause just as much damage, such as buses and industrial business smoke stacks.

Chair Mansfield thanked Mr. Wills for his military service.

Daniel Sparks, a 20-year Department of Public Works employee, stated that a smokefree policy has already gone into effect at work. He said that he drives a salt truck, and sometimes they are required to work a mandatory seven days a week, up to 14 hours a day, and yet he is not allowed to smoke in his vehicle if there is another employee with him. He said that there are times when a big snow is expected that they

are on lock-down for up to 16 hours. He said that in the past, areas were set aside for them to smoke, which were very much appreciated, since snow weather can be pretty treacherous and the temperatures can be as low as 15 degrees below zero. He said that other employees will not come to Committee hearings to speak out for fear of losing their jobs.

Bill Smythe, owner of four Claude & Annie's Restaurants and Indy Amusements, stated that this is an intrusion on personal rights. He said that the data that has been submitted does not show the real loss of revenue to all businesses, but just an average. He said that he is clearly opposed to this proposal. He said that bars do not allow children into their establishments, and therefore, they are not affecting children with secondhand smoke. He said that he is glad to see more opposing views here this evening than at the previous hearing.

Jerry King, Indiana Public Health Association (IPHA), stated that IPHA is an affiliation of the American Public Health Association (APHA). He said that the APHA held a convention here in Indianapolis, with over 11,000 health officials here for a five-day conference, spending money in restaurants, hotels, and shops. He said that the APHA will no longer hold conventions in any city that has not gone smokefree. He said that although the loss of one convention may not seem like a big deal, there may be other health organizations or convention entities who will follow suit. He said that many other large cities have already gone smokefree, such as Sacramento, San Francisco, Honolulu, Lexington, Dallas, Boston, and New York. He said that public health is a good reason to do this here in Indianapolis.

Dan Drexler, Libertarian Party, said that the California data was based on an Environmental Protection Agency (EPA) study, with just a passing note on outside smoke. He said that most secondhand smoke exposure happens in the home, not in a restaurant or bar. He said that the data that has been represented is funded by anti-tobacco lobbyists. He said that if the Committee really believes there will be no economic impact, they should add a sunset clause and a provision to subsidize those businesses that experience a devastating loss of business.

Monica Moran, bartender at the Post Pub, said that 85% of their clientele are smokers and all are 21 or older. She said that customers should have the choice, and asked why the Committee wants to take away one more freedom.

Tom Quarto, co-owner of Post Pub, stated that the data presented has been unfair and misleading. He said that it has been said this ban will not affect businesses. He said that it probably will not affect fast food restaurants or national chains, but the small bars and taverns will be devastated. He said that California has far fewer smokers than this part of the country and the weather allows for outdoor smoking to be convenient and comfortable. He said that in New York and in Fort Wayne, small bars are closing. The Committee should explore the idea of exempting taverns. He said that this proposal will put him out of business, due to the decline in revenue.

Bill Bowes, Smoke Free Indy, said that there is a growing awareness of people who have fallen victim to secondhand smoke. He said that while he agrees it is a choice not to go to these places where smoking is allowed, some may not be fully aware of the dangers. He added that many non-smokers would like the opportunity to socialize, bowl, dance, shoot darts, and eat in an establishment where their health is not at risk. He said that non-smokers' choices are not as extensive because of limited smokefree venues for these types of activities. He asked the Committee to help him and 650,000 of his closest friends to have more choices.

David Hogan, owner of Hogan's Pub, said that most of his patrons are 35 to 80 years old and he has 40 darters on Monday nights. If this proposal is passed, these darters will go to Johnson County. He said that he would be glad to put a sign on his door to indicate that he is a smoking establishment, and if people do not want to be exposed to smoke, they can go elsewhere. He said that he paid \$135 recently to attend a Monster Truck Show at the RCA Dome, and the smoke was much worse than anything in a bar. He said that he served in Vietnam, where servicemen were exposed to agent orange by the government.

Chair Mansfield thanked Mr. Hogan for service to his country.

Symone McEwen, citizen, stated that she moved from Portland, Oregon, where smoking was banned, so that she would have more freedom, and owners should have rights.

Merrill Roberts, non-smoking citizen, stated that the Committee continues to bring in all these experts on secondhand smoke. According to their data, everyone in this room should be dead. He said that there are probably other doctors who would say differently. He said that with regards to parks and bus stops, he does not have a problem keeping these smokefree, but for privately owned businesses for clientele over the age of 21, they should be allowed to make their own business decisions.

Tim Filler, citizen, stated that he supports this ordinance as it is designed to protect workers. It is okay if those who smoke want to die early, but it is not okay for their smoking to promote his early death. He said that he did not choose to breathe in smoke, and he has a right to a smokefree workplace.

Josh Shaw, citizen, said that he graduated last May from Indiana University. He said that since the ban was passed in Bloomington, he now goes out more often because he has more choices. He said prior to the ban, he only went to non-smoking restaurants, but it is nice not to have to go out of his way to find one. He said that he is a big fan of the smoking ban ordinance, and he believes it has been good for business in Bloomington.

Marvin Schroeder, citizen, said that he quit smoking three months ago. He asked, however, if this ban passes, what is next? He asked if the Council will then propose a ban on alcohol or the lottery. He said that instead of banning these things, the City should put a "sin tax" on such activities, so that people quit the activity to avoid paying the tax, and those who do not want to quit will have to continue to pay for it.

[Clerk's Note: Councillor Talley arrived at 6:56 p.m.]

John Parlapiano, Waters Edge Pub, stated that the Committee should consider the expenses some of these establishments have incurred for expensive ventilation systems. He said that he would gladly accept a smoking ban if his customers wanted it, but they do not. He said that his customers come to his bar to smoke away from the home, where there are children and their smoke might harm them.

Rex Burcham, Kelly's Pub II, said that his bar is located just a few minutes from the Hendricks County line. He said that his establishment is only open to adults 21 and older, and he knows if this ban is passed many of his customers will pass his bar to go four miles to another establishment so that they can enjoy a cigarette with their meal or drink.

Susan Sheridan, Martin University, stated that she was a nurse for 30 years, and the negative effects of secondhand smoke are becoming more and more evident. She said that although tonight it seems the smokers' voices are louder than the non-smokers', she has 500 students in her African American studies classes, and almost all of them support a non-smoking ban. She said that she has one 50-year-old student who has asthma and has to stay home and cannot enjoy the jazz music she loves because of the dangers of secondhand smoke in most places that offer this type of music.

Nikki Haars, citizen, said that she chose not to smoke because of her health. She developed lung cancer, and the doctor told her she had the lungs of a smoker even though she had never smoked. She said that she worked in a smoke-filled environment for 20 years, and knows that is the reason for her cancer. She said that there is no reason to wait any longer to pass this proposal. This is a public health policy and safe workplaces should be provided for everyone. She said that it has been proven that cigarette smoke causes cancer, and the Council should take steps to protect the health of future generations.

Jack Rossman, Air Cleaning Specialists, said that the real problem is not the absence of technology to clean the air, but that there are laws on the books that are not being followed and enforced. He said that 90% of establishments do not follow the ventilation requirements because of the expense. He said that he personally prefers a smokefree environment, but he expects bars to have some smoke. He said that the City needs to enforce the laws in place instead of passing a ban.

Dustin Fitzpatrick, citizen, said that this is America, and there should be choices. He said that everyone knows there will be cigarette smoke in a bar, and if they do not want to be around it, they should not go in. He said that this ordinance is asinine and it will hurt the income of small business owners.

Scott Eder, Harvester Bar and Grill, said that he owns a small business that is part of the fabric of the community. He said that he keeps his establishment clean for his customers so that both non-smokers and smokers enjoy their experience. He said that his customers are the ones who support him, and their patronage enables him to give charitable contributions back to the community that he would not be able to do if they quit coming. He said that if his business closes, many will lose out.

Penny Bigelow, citizen, read a prepared statement which is attached as Exhibit B.

Don Sneed, restaurant owner and employer in Warren Township, asked after making a legal substance illegal on private property, what will stop government from regulating legal activities in one's own home? He said that this is private property, and it should be a personal choice. People do not need to come to his restaurant if they do not like the smell of smoke.

Rich Strong, citizen, said that he is a non-smoker and he cannot imagine being exposed to secondhand smoke in his own workplace. He said that non-smokers have avoided bars for years because of the effects of secondhand smoke and because they do not want to pay a cover charge to enter a place, only to be putting their health in harm's way. He said that the objections seem more voluntary and selective. There have been regulations on businesses for years to help protect the safety and health of citizens, such as wastewater treatment and air pollution, and this is simply another way to protect those rights.

Jonathan Smith, citizen, said that American soldiers are dying to protect rights and freedom, and yet they cannot come home and enjoy a cigarette in a bar because their own personal freedom and choices have been taken away. He said that he did not ask anyone to serve with him overseas, and therefore they should stay home and not ask him not to smoke.

Babette Johnson, bartender, asked if this Committee is willing to pay to support her children if this proposal passes. She is a single mother and may not have a job if this ordinance is enacted.

Deborah Muterspath, citizen, said that movie theatres are smokefree, but this does not seem to hurt their business any. She said that national anchorman Peter Jennings just last night testified to having lung cancer from smoking, further reinforcing the fact that smoking kills. She said that she cannot go to listen to her son play in his band because of the smoke-filled environment. She thanked the Committee for considering such an important issue.



Councillor Keller said that \$1 of every \$7 is spent on health care, and it was testified that the City could lose significant convention and hospitality dollars. He asked if these losses have been weighed against bars or taverns possibly losing some revenue.

Mr. Quarto said that this is not just about losing a few dollars, but is about livelihoods. He said that the City could also lose convention business if the ban is enacted, such as from racing or sports conventions. He said that all the statistics that have been presented are one-sided, and he still does not believe secondhand smoke is harmful.

Mr. Fitzpatrick said that the City could lose the firefighter convention, Formula One, and other possible organizations because of a smoking ban. He said that he does not live in a communist country and this will hurt the city more than it will help.

Chair Mansfield said that a poll is actually being conducted of conventions that come to the City to see how a ban would affect their decision to continue bringing their convention business here.

Joe Wilson, owner of a bar in Councillor Keller's district, said that this ban will definitely affect and hurt his business, which he depends on for his livelihood.

Mr. Parlapiano said instead of a ban, the City should offer incentives to bars to be smokefree, such as reductions in licensing fees, and then let them and their customers decide.

Mr. Webb said that a small business owner cannot weigh a "sure thing" against a possibility. He said that these tavern owners have no way of knowing for sure if they will gain new non-smoking customers, but have been told by their current clientele that a smoking ban will keep them from coming as often or staying as long.

Joan Marcinac, student at Indiana University-Purdue University of Indianapolis (IUPUI) and resident of Councillor Monroe Gray's district, stated that this ordinance should be passed for integrity and compassion. She said that there are many regulations and laws that people do not like, such as seatbelts and reduced speed limits in school zones. However, these are necessary to protect the health and safety of citizens. She said that adults tell children that smoking is bad, yet show by example that it is acceptable. She said that 80% of people who smoke want to quit, but it is an addiction and is not that easy. She said that this ordinance would help people quit smoking and keep people from starting. She said that the Council should set an example and provide an environment to eliminate this health hazard.

Councillor Bowes said that this is a very controversial issue and the Council does not want to make the wrong decision. He said that they want to make the right decision that does the most good and they have the best intentions. He said that he would hate that the Council made the wrong decision by passing the proposal and putting dozens of

businesses out of business, but would also hate that they made the wrong decision by not passing the ordinance and causing more citizens medical complications and death.

Councillor Oliver said that there has been a gradual decline of smokers these last few years, and only about 30% of the population still smokes. He said that almost anywhere he goes these days, he rarely sees smokers. He said that insurance companies offer discount rates for non-smokers, which helps to combat the smoking health hazard. He said that the Committee does not want to overreact and do more harm than good.

Councillor Talley said that there is not one member of the Council who wants to make a decision that is detrimental to Marion County. He complimented the Committee Chair on holding public forums in different areas of the city at different times in order to solicit the most input. He said that the members will not make a decision without first listening to all the input being offered. He said that he has left some brochures in the back with information on contacting Council members and access to their website, so that the public can continue to make their views on this and other subjects known.

Councillor Abdullah thanked everyone for their remarks and said that this is a hard decision to make for the community. The Committee wants to do the best they can to provide a healthy environment for all. He said that they also want to consider business owners and freedom of choice. He added that his father died of cancer because of smoking and asked if someone grows up in such an environment and develops chronic asthma, who pays that cost if the individual cannot? He said that the Committee is trying to consider the greater good without causing hardship on those who have invested financially in a business. He said that he is a percussionist but cannot go into a bar to play because of the smoke. He said that it is a fact that secondhand smoke kills, and he is passionate about this issue, while being respectful to do something positive for the entire community.

Chair Mansfield said that this public forum is just a part of the overall process. She thanked all those who shared their thoughts and concerns and invited them to come again tomorrow night and next Thursday. She encouraged others to come out and let their voices be heard, as well.

There being no further business, and upon motion duly made, the meeting was adjourned at 8:03 p.m.

Respectfully Submitted,

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Angela Mansfield, Chair

AM/ag